

MARNWILH

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
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3 UNITED STATES OF AMERICA,

4 v.

15 Cr. 288 (RMB)

5 ENIKO WILSON,

6  
7 Defendant.

8 Hearing on Violation  
-----x

9  
10 New York, N.Y.  
11 October 27, 2022  
12 10:00 a.m.

13 Before:

14 HON. RICHARD M. BERMAN,

15 District Judge  
16 APPEARANCES (Via Telephone)

17 DAMIAN WILLIAMS

18 United States Attorney for the  
Southern District of New York

BY: HAGAN C. SCOTTEN  
Assistant United States Attorney

19 HARVEY FISHBEIN

20 Attorney for Defendant

21 Also Present:

22 Giavonnii Fodderingham, U.S. Probation

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1                   THE COURT: Good morning, everybody.

2                   Good morning, Mr. Wilson and Mr. Fishbein and  
3 probation and the U.S. Attorney's Office.

4                   This is Judge Berman.

5                   This is our first supervised release hearing in this  
6 somewhat complicated, at least geographically, case.

7                   We did get a memo from the probation department dated  
8 October 12, 2022, and I'm going to make that Court Exhibit A to  
9 today's proceeding.

10                  It is a little bit complicated, but here's the way I  
11 understand it. This is supervised release before supervised  
12 release came into play back in October of 2016. Mr. Wilson was  
13 sentenced to a 60-month term of imprisonment, followed by five  
14 years of supervision.

15                  Supervision, Mr. Wilson, is very different than the  
16 term of incarceration. Supervision is not intended, at least  
17 in my experience, to be a punishment. Supervision is the  
18 period of time when the Court and probation and everybody else  
19 that is on the phone endeavors to assist someone like yourself  
20 to comply with the terms and conditions of supervision, which,,  
21 as I said before, are typically not intended as punishment.

22                  Following the five-year term of incarceration, as I  
23 said, there was a five-year period of supervised release  
24 imposed by me.

25                  Here's where it gets a little bit complicated.

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1 Mr. Wilson was deported I think back to Jamaica, and then he  
2 came back into the United States on or about I guess October  
3 24, 2021, when he endeavored to reenter the United States and  
4 he was arrested again. I think he had a court case in  
5 San Diego, in California in any event, and he was sentenced on  
6 October 13, two thousand -- no, I'm sorry. He was sentenced to  
7 a one-year term of imprisonment, I think it was one year and a  
8 day, followed by a year of supervision in southern California.

9 Following that sentence I understand he was  
10 transferred to the custody of immigration authorities, and  
11 sometime following that he was released from custody and has  
12 wound up in New York, which is where he is now.

13 I think that's sort of a fair summary of what's  
14 happened so far.

15 Probation has in the Exhibit A that I talked about  
16 suggested that -- this is the part where it is a little bit  
17 complicated as far as I'm concerned -- they are suggesting that  
18 supervision gets transferred somehow back to California where  
19 there is a one-year term of supervised release and the  
20 five-year term of supervised release that I imposed be  
21 terminated.

22 I am not exactly sure how one does that, but I think  
23 that's sort of how I understand it anyway. You probably all  
24 understand it much better.

25 Let's do the following:

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1                 First of all, Mr. Fishbein, you are new to this case,  
2 but I take it you got yourself caught up to where we currently  
3 stand, among other things, by having spoken to Mr. Wilson  
4 before today's hearing; is that right?

5                 MR. FISHBEIN: Yes, your Honor. I was able to have a  
6 relatively brief conversation, but a conversation with him late  
7 yesterday, and I understand the facts as you just recited them  
8 as far as the sequence of events. So we are up to --

9                 THE COURT: Did you get -- I'm sorry.

10                MR. FISHBEIN: That is okay. Up to that point I  
11 understand and I am in agreement.

12                THE COURT: Did you get a chance to see probation's  
13 October 12, 2022, submission to the Court?

14                MR. FISHBEIN: Yes, I have.

15                THE COURT: Okay.

16                MR. FISHBEIN: I was furnished with the papers  
17 yesterday.

18                THE COURT: Good.

19                MR. FISHBEIN: Or the day before. The day before.

20                THE COURT: That's great. Why don't we turn for the  
21 moment to the probation officer. We can swear in the probation  
22 officer, and I will try and figure out what are the next steps  
23 and what can be done and what can't be done.

24                One thing I am interested in knowing, among other  
25 things, is how did Mr. Wilson wind up in New York and where is

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1 he living, what is he doing, what are the terms of his  
2 supervision and have those been implemented, etc., etc. And  
3 also what is likely to happen next so to speak in terms of  
4 possible deportation again I assume.

5 But anyway, if we could, Christine, swear in the  
6 probation officer and try and figure out where we are and where  
7 we are going from here.

8 THE DEPUTY CLERK: Yes, Judge.

9 GIOVANNI FODDERINGHAM, sworn.

10 THE COURT: Okay.

11 So help us unravel where we are, Ms. Fodderingham, and  
12 where we need to go.

13 MS. FODDERINGHAM: Good morning, your Honor.

14 For your information, the information that we provided  
15 in the court report is correct. The only difference was, at  
16 the end, Mr. Wilson's supervision was transferred to, the  
17 Southern District of California term of supervision was  
18 transferred to the Southern District, so we now are supervising  
19 him under both jurisdictions so to speak.

20 THE COURT: How did he get transferred to New York?

21 First of all, how physically did he get to New York,  
22 and how did the supervision get transferred to New York?

23 MS. FODDERINGHAM: So, once he was released from  
24 imprisonment in California, he was transferred to ICE custody,  
25 Immigration and Customs Enforcement, and he was released on an

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1 ankle monitor from immigration and he traveled to New York to  
2 reside with his family.

3 THE COURT: I see.

4 So he has family here in New York, does he?

5 MS. FODDERINGHAM: Yes.

6 He resides in the Bronx with his family.

7 THE COURT: In the Bronx?

8 MS. FODDERINGHAM: Yeah.

9 THE COURT: And that's where he's been living. I got  
10 it.

11 MS. FODDERINGHAM: Yes.

12 THE COURT: I don't have it in front of me, but you  
13 may. In the judgment, did we set forth terms and conditions of  
14 supervision that we need to address or no?

15 MS. FODDERINGHAM: Aside from the standard conditions,  
16 the only special condition imposed by you was to be in  
17 compliance with immigration.

18 THE COURT: I got it.

19 And so if there were nothing else, if nothing else  
20 happened in San Diego, for example, he would be here, which he  
21 is, and he would be on supervision here, which he is, and how  
22 would he be doing? How would you say he would be doing here on  
23 supervision so far?

24 MS. FODDERINGHAM: I have only met him on two  
25 occasions. He was deported to Jamaica in September of 2020,

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1 and we were monitoring the case, which is how we were notified  
2 of his reentry and his subsequent sentencing in the Southern  
3 District of California. So when an individual is deported, we  
4 just monitor the case until the maximum expiration date is  
5 reached.

6 THE COURT: And is he in process of being deported  
7 again?

8 MS. FODDERINGHAM: I believe that will be the outcome.  
9 I just am unsure. I have not had any contact with anyone at  
10 the immigration office. I'm hoping to obtain at least an  
11 officer that he's assigned to soon, but I don't have that  
12 information yet.

13 So I believe that he reports regularly so that he  
14 makes sure that he's in compliance, and I don't know what the  
15 end result will be or how long it will take.

16 THE COURT: I see.

17 In the meantime is he able to support himself here?  
18 Is he able to work? How does that work? Is probation in a  
19 position to be of help to him in any way?

20 MS. FODDERINGHAM: Once I am able to contact the  
21 immigration officer that will be assigned to him, we can see if  
22 he will be able to be employed, how that will look. And if he  
23 is actually granted permission to work, then of course my  
24 office can help him obtain employment and help him with any  
25 other services that he needs.

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1           THE COURT: For the moment you are saying he's living  
2 with family members in the Bronx?

3           MS. FODDERINGHAM: Yes.

4           THE COURT: And have you done or will you do a home  
5 visit to see --

6           MS. FODDERINGHAM: Yes. I plan to do a home  
7 inspection.

8           THE COURT: I got you.

9           Okay. So I might turn to the assistant for a minute  
10 in this case to maybe help me understand the legalities of, you  
11 know, deportation.

12          What's likely to happen to someone in Mr. Wilson's  
13 case? Can he stay here in the Bronx? Can he work? You know,  
14 should we be helping him find a job? Maybe he's found one  
15 himself. You know, that kind of thing.

16          MR. SCOTTEN: Your Honor, I don't have any of the  
17 specifics of the conditions of his parole. I did check in with  
18 Homeland Security, who, as you may recall, was one of the  
19 investigating agencies on this case. And that's somewhat  
20 helpful because they have access to the customs and border  
21 patrol records and so were able to tell me a little bit more.

22          But my understanding is essentially Mr. Wilson should  
23 be detained. He is not solely due to a bed space issue. I did  
24 not inquire about whether he had a work permit. I suspect,  
25 based on dealing with this in other cases where that actually

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takes some work to get a work permit, and is usually done only when the person is here lawfully in some fashion such as maybe being kept here to be a witness in another case.

I strongly suspect he does not have permission to work, but I don't know that. My understanding is that he is likely to be deported.

But as I am sure your Honor saw, too, you know, the report states that he is fighting deportation. I have no idea what his grounds are, so I can't opine on the likelihood of, you know, if he has some grounds that would excuse him from deportation.

Given that he's already been removed once and committed a second federal felony by illegally reentering, I suspect he is not going to have a very strong case to fight deportation, but I don't know that without seeing what his claims are.

I should however step back a bit.

THE COURT: Yes.

MR. SCOTTEN: I'm somewhat confused by the entire nature of today's proceeding.

THE COURT: Me too.

MR. SCOTTEN: Mr. Wilson, one of his conditions of release was not to commit any federal crimes. He has dispository committed a federal crime. He pled guilty to it, he was convicted of it in a court, he served a year of jail

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1 time.

2 He is, without any doubt or room or discretion, in  
3 violation of his conditions of supervised release. He's also  
4 probably commit a second violation, because as the probation  
5 officer just told us, your Honor did require him to comply with  
6 the requirements of the immigration authorities, foremost of  
7 which was not to illegally reenter the country after being  
8 deported.

9 So I simply cannot understand why the probation office  
10 has not filed a violation and, frankly, why he is not detained,  
11 because there is far more than clear and convincing evidence  
12 that he has violated his conditions. And I think the probation  
13 officer's failure to do so is endangering the public.

14 THE COURT: I don't know about -- well, if it's the  
15 probation officer. I was a little surprised that he was  
16 released from ICE detention, because that's how I guess he got  
17 to New York.

18 MR. SCOTTEN: I agree with that, your Honor.

19 That also is unfortunate, and I checked in on that.  
20 Apparently, it is a bed space issue, which sounds terrible, but  
21 obviously there is not something I can do. But he is sort  
22 of -- he should be detained on two grounds. He has clearly  
23 violated his conditions of supervised release. I don't know  
24 why a specification hasn't been filed.

25 THE COURT: Yes, I get it.

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1           When you say bed space, they didn't have any room for  
2 him? Is that what you are saying?

3           MR. SCOTTEN: Right. This is obviously a decision  
4 reached out in California, so I wasn't able to get the details.  
5 It was just a question of our case agent checking, you know,  
6 what he could get from a raw database.

7           But it sounds like they are just so overloaded with  
8 people entering the country unlawfully that even convicted  
9 felons like Mr. Wilson are in some cases being paroled with an  
10 ankle monitor because they just don't have the space to detain  
11 him.

12           THE COURT: Are they, when you say -- I assume we are  
13 talking about the immigration authorities. Are they in some  
14 fashion supervising him here in New York or no?

15           MR. SCOTTEN: Not to my knowledge. I don't think  
16 there is much of a supervision regime for this other than, you  
17 know, he's got an ankle monitor, although since he's traveled  
18 all the way from California to New York I am not exactly sure,  
19 you know, where he could get in trouble for going if he's  
20 allowed to cross the entire country with it.

21           I can try to find out for the Court what supervision  
22 he's receiving from the immigration authorities. But to be  
23 clear, I may be of the position that there is a judicial  
24 responsibility here which is entirely separate. There is no  
25 reason he shouldn't be facing a specification, which would

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1 render immigration supervision obsolete.

2 THE COURT: Oh, yeah. I guess that -- I am kind of  
3 interested in the interplay between supervised release and ICE  
4 immigration detention. For example, who monitors the bracelet,  
5 if anybody? You know what I mean?

6 MR. SCOTTEN: Yes, your Honor. I can try to find out,  
7 assuming it's ICE and not the probation office who is  
8 monitoring that.

9 I can certainly check HSI channels to see if they know  
10 who's monitoring it, although, again, if he were detained for  
11 having violated his conditions of supervised release by  
12 committing another felony, the bracelet issue would certainly  
13 go away.

14 THE COURT: Yeah. I think in Exhibit A, which is the  
15 probation report, I think they're suggesting that he be  
16 returned to California and that supervision in New York be  
17 terminated.

18 I don't really know how that happens or would happen.  
19 I am not doing it right now, because I think that requires a  
20 little more investigation as to, you know, where he would go  
21 and that kind of thing.

22 So for the moment then, he's here. He's in the Bronx.  
23 And I know that probation is going to do a home visit just to  
24 see, you know, where he's staying, and we do want to know if  
25 he's permitted to work, or if he is working or if he is on

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1 supervision what conditions, if any, are applicable.

2 So it is a little bit of an unusual case and I think  
3 we need to do a little more investigation is what I am saying.

4 Now, Mr. Fishbein, what were you able to understand to  
5 be the status where things stand at the moment vis-a-vis  
6 Mr. Wilson?

7 MR. FISHBEIN: Actually, Judge, I don't have any  
8 information beyond what has been discussed already.

9 THE COURT: Okay. I mean, you know what we know.

10 MR. FISHBEIN: That's correct.

11 THE COURT: Okay. Yeah. I would say that for  
12 openers, we really should do the home inspection as quickly as  
13 we can.

14 Probation, do you know in any more detail how  
15 Mr. Wilson is, you know, how is he supporting himself or  
16 whether he's permitted to work, whether there needs to be, as  
17 Mr. Scotten is saying, a violation filed?

18 It is a very unusual case. We do want to make sure  
19 that Mr. Wilson is receiving the attention he ought to receive.  
20 Do you know what I mean?

21 MS. FODDERINGHAM: Yes, your Honor. I understand the  
22 Court and the government's concern regarding the violation. I  
23 do apologize, but I was following the directives of my  
24 higher-up. And this is the way that I was told to take.

25 THE COURT: Yes.

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1 MS. FODDERINGHAM: So, to be clear, I was requesting  
2 that the Southern District supervised release be early  
3 terminated, and we would continue to supervise Mr. Wilson under  
4 the one-year term of supervision given by the Southern District  
5 of California. Once he leaves --

6 THE COURT: Yes. That's the --

7 MS. FODDERINGHAM: Sorry?

8 THE COURT: I was going to say that five-year/one-year  
9 thing, I don't know that you can just ordinarily either legally  
10 or appropriately terminate the five-year term. Usually early  
11 termination is reserved for people who are doing exceptionally  
12 well on supervision.

13 MS. FODDERINGHAM: Yes, I understand that.

14 THE COURT: Yes. So I don't think that is our case  
15 here exactly. So I think we should keep for the moment the  
16 supervision under the judgment while here to do some  
17 investigation, you know, home visit, all that, and I think the  
18 big burden will fall on Mr. Scotten to help us understand the  
19 legalities of two different terms of supervision and, more  
20 importantly, two geographies, one New York and one California  
21 and realistically -- not only realistically, but what is the  
22 most helpful way to go about it.

23 But for the moment, since he's here and since we have  
24 supervision over him as a result of the judgment, I think for  
25 the immediate future I am going to assume that we are

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1 supervising him and we have to figure out what he's able to do  
2 during that period of supervision lawfully.

3 MS. FODDERINGHAM: You are correct, your Honor. We  
4 are supervising him and California has transferred their  
5 supervision to the Southern District of New York, so we are  
6 totally responsible for him.

7 THE COURT: They actually sent a transfer set of  
8 papers or whatever?

9 MS. FODDERINGHAM: Yes. They sent an official request  
10 for transfer of supervision to the Southern District of New  
11 York based on his residence currently, which is in the Bronx.

12 THE COURT: And SDNY New York has accepted that  
13 transfer?

14 MS. FODDERINGHAM: Yes, we have.

15 THE COURT: Oh. All right. Yeah. So that's  
16 consistent with what I was suggesting, which is that he's here,  
17 we've got him, and now we hear that we officially -- that is to  
18 say the probation department --

19 MS. FODDERINGHAM: Yes.

20 THE COURT: This is the first I have heard about this  
21 case, but they have accepted supervision.

22 So, Mr. Scotten, that is some help.

23 It may render moot the suggestion that we send him  
24 back for one year of supervision if he's already been  
25 transferred here for five years of supervision, but that is

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1 something I think I am going to depend on you to help sort out,  
2 you know, what the legal status is for him.

3 MR. SCOTTEN: To be clear, your Honor, I don't think  
4 there is a lack of clarity on that point now. There was before  
5 today's conference, because the paperwork wasn't entirely up to  
6 date.

7 But, based on the probation officer's explanation,  
8 he's here. He never left here for supervision because there  
9 was never a transfer of supervision to California from this  
10 court's sentence, so that five-year term has always been here.

11 As your Honor alluded to just a minute ago, if the  
12 California term has also been transferred here, then I don't  
13 think there's really any ambiguity or further research. He is  
14 being supervised by this court. I am happy to --

15 THE COURT: Yeah.

16 MR. SCOTTEN: -- to find out what conditions, if any,  
17 he is subject to on the ICE side, which is, you know, sort of  
18 not within this Court's supervision, to see if there's any  
19 overlap or lack of overlap, etc. So I will look into that.

20 THE COURT: Yeah.

21 MR. SCOTTEN: But I do have to repeat -- and, frankly,  
22 I have never looked into it before, sort of this office's  
23 authority to proceed alone if the probation officer doesn't  
24 file a specification, but I really would ask the Court to  
25 inquire why a specification has not been filed. There is

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1 literally no doubt that he violated his conditions of  
2 supervised release. I have never seen it where someone has  
3 pled guilty to committing a federal felony while on supervised  
4 release and a specification has not been filed. I would really  
5 ask the Court to put that directly to the probation officer.

6 THE COURT: Yes.

7 Well, I think she's taken that to heart and will  
8 probably want to discuss that with her supervisor. My guess  
9 would be that there would probably be a violation filed here in  
10 supervision, right? Would that be the next step that you would  
11 be taking?

12 MS. FODDERINGHAM: Again, your Honor, I was following  
13 the orders of my chain of command --

14 THE COURT: I know.

15 MS. FODDERINGHAM: -- when I submitted that report.  
16 If the Court is requesting a violation be filed then absolutely  
17 I will file one.

18 THE COURT: Well, you know, it is not the Court's  
19 prerogative. I would like you to have a fuller discussion with  
20 your department, because, you know, you have this application  
21 that we terminate our supervision, so that doesn't make much  
22 sense, and we send him back to California. That doesn't make  
23 much sense.

24 So I think that in response to your application to the  
25 Court, your application for judicial response, I think what I

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1 am going to do is check off "Other," and I am going to also ask  
2 that probation do a thorough review of this case and determine  
3 what next steps our SDNY probation department intends to take

4 That could include withdrawing the request to  
5 terminate supervision in New York, and that could also include  
6 pursuing the five-year term of supervision in New York.

7 As Mr. Scotten has pointed out, isn't there a basis  
8 for SDNY probation to file a specification in light of the fact  
9 that he not only pled but was in jail for a year in California,  
10 which would appear to be a violation of the terms and  
11 conditions of supervision?

12 So I think you need to have a thorough conversation  
13 with your associates and supervisor and determine, instead of  
14 the application that's currently pending what application and  
15 what probation SDNY proposes to do now that we have had today's  
16 conversation and we better understand the facts what's next in  
17 terms of supervision.

18 Is that fair?

19 MS. FODDERINGHAM: Yes, that's fair.

20 THE COURT: Okay. So I don't think we should take too  
21 long for that. Maybe we can ask Mr. Wilson if he's settled in  
22 the Bronx, if he has a place to live first of all.

23 Mr. Wilson?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do I understand correctly that you are

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1 here in New York, you are in the Bronx, and living with family  
2 members?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And is that okay?

5 Is that working out with you and with the other family  
6 members?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Okay. So you have a place to stay while  
9 you are here in New York.

10 Is that right?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: I don't know if this has come up, but how  
13 are you supporting yourself?

14 Are you working here in New York or what?

15 THE DEFENDANT: No, I'm not working, your Honor.

16 THE COURT: Okay. Who are you living with? A sister?  
17 Parents?

18 THE DEFENDANT: Yeah, my mom.

19 THE COURT: Okay.

20 Typically what would happen, and probation has said  
21 that they will, they will come out and visit your mom's place  
22 just to see what the living situation is.

23 THE DEFENDANT: Yes.

24 THE COURT: Okay. Okey-dokey.

25 How did you get, by the way, from California to New

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1 York? Did you fly here? Did you come by bus?

2 THE DEFENDANT: Yeah.

3 THE COURT: You flew?

4 THE DEFENDANT: I flew.

5 THE COURT: Okay. Does anybody from California check  
6 in with you or call you or ask you to call them?

7 Are they supervising you in any way that you are aware  
8 of?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: I get it. All right.

11 I think I have it. I understand it.

12 All right. So, Mr. Fishbein, I think you can do a  
13 little research, everybody is, and we are going to get together  
14 again pretty soon and figure out what's up here and where we  
15 are going, unless you have thoughts about that now, I'm happy  
16 to hear it.

17 MR. FISHBEIN: I don't have anything to add at this  
18 point, Judge.

19 THE COURT: Okay.

20 Let's ask probation. Probation, how long do you think  
21 it would take for you to do your internal review and perhaps do  
22 a home visit and confer with Mr. Wilson, who is now being  
23 supervised in New York pursuant to a judgment which has him on  
24 five years of supervision?

25 How long do you think you need before you can get back

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1 to us?

2 MS. FODDERINGHAM: Your Honor, I will be away at  
3 training in South Carolina for one week. So I would ask that I  
4 can be given at least two weeks. When I return, I will do the  
5 home inspection. And while I am away, when I have free time, I  
6 will try to find out as much information about his immigration  
7 supervision as I can.

8 THE COURT: Okay. So would you say that three or four  
9 weeks from now would be okay?

10 MS. FODDERINGHAM: Yes.

11 THE COURT: By the way, I think, as Mr. Scotten has  
12 pointed out -- and you may want to talk to him after we finish  
13 this hearing today as to specifications -- you have heard what  
14 his thought is -- and see what your department feels about  
15 that. Okay?

16 MS. FODDERINGHAM: Okay. Yes.

17 THE COURT: So, Christine, what do you think about  
18 three or four weeks?

19 THE DEPUTY CLERK: Judge, how is November 28 at 11:30?

20 THE COURT: So, probation, is that good for you?

21 MS. FODDERINGHAM: Yes. That works for me.

22 THE COURT: And Hagan, is that good to you?

23 MR. SCOTTEN: Your Honor, I can certainly make that  
24 date. I would request a sooner date. I think I do have to  
25 note, since it is -- it falls on me partly to protect, the

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1 public, I do think ultimately it is your Honor's prerogative.  
2 You had said a minute ago that it wasn't. But the probation  
3 office works for your Honor, so I think it ultimately your  
4 Honor's prerogative whether there is a specification here or  
5 not.

6 And I think the Court has, you know, sent the  
7 probation officer to talk about it, but I would just note  
8 ultimately this does -- it is up to you. If they don't want to  
9 file a specification, you absolutely can and should tell them  
10 to do so.

11 THE COURT: Yeah.

12 MR. SCOTTEN: The government remains concerned that a  
13 twice-convicted felon will be at liberty for a month for no  
14 apparent reason.

15 THE COURT: Yeah.

16 So I think that, you know, when the officer goes back,  
17 in fact today, tomorrow, she's going to have a different take  
18 on how things should proceed, and she's probably going to want  
19 to withdraw the submission that she's made, Court Exhibit A,  
20 and replace that with something different that suits the facts  
21 of this case.

22 I get it. I think I understand my authority. I think  
23 I would prefer if probation gave it a more thorough analysis.  
24 They may very well come up with that solution themselves, and I  
25 think that would be appropriate.

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1                   So November 28 is our date.

2                   Probation, you know, I agree with Mr. Scotten. I  
3 think that is a more appropriate direction to go in, namely,  
4 the filing of a probation specification and the withdrawal of  
5 the application that's currently before the Court. I think you  
6 should take a look at that as soon as you can and -- as soon as  
7 possible actually, so we get this straightened out.

8                   MS. FODDERINGHAM: Okay. I will.

9                   THE COURT: Okay. Mr. Wilson, you got it that  
10 November 28 we are having another hearing?

11                  THE DEFENDANT: Yes, your Honor.

12                  THE COURT: And, Mr. Fishbein, you are okay for that  
13 as well?

14                  MR. FISHBEIN: That's correct, your Honor.

15                  THE COURT: Okay.

16                  So it is also true, right, Mr. Scotten, that for that  
17 violation, Mr. Wilson has served an additional year  
18 incarceration and received an additional term of one year of  
19 supervision as a result of reentering the country?

20                  You realize that, Mr. Scotten, right?

21                  MR. SCOTTEN: I am aware that he has served his  
22 sentence on the underlying felony. But as your Honor knows,  
23 under the guidelines and Second Circuit precedent, that is not  
24 in any way punishment for the violation of supervised release,  
25 which is a separate violation of the Court's trust.

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1           THE COURT: I totally get it. But it is not as if he  
2 hasn't faced any consequences as a result of coming back to the  
3 United States. Indeed, he's gotten a one-year sentence, which  
4 he has completed in fact.

5           So I get it. I think I know my responsibility, and I  
6 think we all, everybody on this call knows their  
7 responsibility.

8           We will talk again on November 28.

9           OK. Thanks, everybody.

10          MR. SCOTTEN: Thank you, your Honor.

11          THE COURT: You bet. Bye-bye.

12          THE DEFENDANT: Thank you, your Honor.

13          MS. FODDERINGHAM: Thank you.

14          THE COURT: Yes. Thanks everybody.

15          (Adjourned)